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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN DAVID PAMPLIN,

Petitioner,

v.

STATE OF NEVADA,

Respondent.

Case No. 3:18-cv-00378-RCJ-WGC

ORDER

This action was initiated *pro se*, on August 10, 2018, by John David Pamplin, who is apparently a prisoner at Nevada’s Ely State Prison (ESP). On that date, Pamplin submitted a document entitled “Request for Personal Restraint Petition Injunction” (ECF No. 1-1). In that document, Pamplin challenges a state-court criminal conviction and sentence. As such, his request is in the nature of a petition for writ of habeas corpus. “[W]hen a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release ..., his sole federal remedy is a writ of habeas corpus.” *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

Pamplin did not pay the filing fee for this action, and he did not submit an application to proceed *in forma pauperis*. Moreover, the petition is not on the form required by this Court. This action is subject to summary dismissal on those grounds.

Moreover, the Court takes judicial notice of the proceedings in Case Number 3:08-cv-00007-RCJ-VPC, in this Court. In that case, initiated by Pamplin in 2008, Pamplin sought federal habeas corpus relief from his state court conviction. His petition was dismissed on January 14, 2011, and he was denied a certificate of appealability by this Court (ECF Nos. 34 and 35 in Case No. 3:08-cv-00007-RCJ-VPC). Pamplin appealed, and the Ninth Circuit Court of Appeals denied Pamplin's request for a certificate of appealability on December 20, 2011 (ECF No. 44 in Case No. 3:08-cv-00007-RCJ-VPC). Pamplin petitioned the United States Supreme Court for certiorari, and the petition for certiorari was denied on May 14, 2012 (ECF No. 45 in Case No. 3:08-cv-00007-RCJ-VPC). On June 11, 2018, Pamplin filed a "Request for Rehearing on Original and Amended Petitions" (ECF No. 46 in Case No. 3:08-cv-00007-RCJ-VPC). That motion was denied on June 18, 2018 (ECF No. 48 in Case No. 3:08-cv-00007-RCJ-VPC). Pamplin appealed from the June 18, 2018, order, and the appeal is pending.

Because Pamplin has not paid the filing fee for this action, or submitted an application to proceed *in forma pauperis*, because his petition is not on the form required by this Court, and in light of the proceedings in Case Number 3:08-cv-00007-RCJ-VPC, this action will be summarily dismissed.

It is therefore ordered that this action is dismissed.

It is further ordered that the petitioner is denied a certificate of appealability.

It is further ordered that the Clerk of the Court shall enter judgment accordingly.

DATED THIS 14th day of August, 2018.

ROBERT C. JONES,
UNITED STATES DISTRICT JUDGE